

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA

V.

RANDY GONZALES

§ CRIMINAL NO. H-06-447M  
§  
§ AFFIDAVIT IN SUPPORT OF  
§ REQUEST FOR EXTRADITION  
§

**AFFIDAVIT IN SUPPORT OF  
REQUEST FOR EXTRADITION**

I, Samuel J. Louis, being duly sworn, depose and state:

1. I am a citizen of the United States and I reside in the State of Texas.
2. From September 1992 to the present, I have been employed by the United States Department of Justice as an Assistant United States Attorney for the Southern District of Texas. During my practice as an Assistant United States Attorney, I have become knowledgeable about the criminal laws and procedures of the United States.
3. As an Assistant United States Attorney for the Southern District of Texas, I am responsible for the investigation and prosecution of persons charged with violating the criminal laws of the United States. I have participated in the investigation and trial of numerous cases involving violations of the criminal laws of the United States. Based upon my training and experience, I am familiar with the criminal laws and procedures of this District and of the United States, as well as the extradition laws of the United States. In particular, I am familiar with provisions of the "Treaty Between the Government of the United States of America and The Government Of the Kingdom of Thailand Relating to Extraditions," which was signed in Washington, D.C. on December 14, 1983, and entered into full force and effect on May 17, 1991.
4. In connection with my duties as an Assistant United States Attorney, I have been

**TRUE COPY I CERTIFY  
ATTEST:**

Michael N. Milby, Clerk of Court

By: *Mercades P. Lenna*

involved in the investigation and filing of charges in the criminal case titled UNITED STATES OF AMERICA v. RANDY GONZALES, Criminal No. H-06-447M, and I am familiar with the charges and the evidence connected with this matter.

5. Under the laws of the United States, criminal prosecutions may be commenced by a United States Magistrate Judge. United States law enforcement authorities present evidence of crimes to a United States Magistrate Judge, who independently reviews the evidence and determines if there is probable cause to believe that a crime or crimes have been committed and that the particular defendant or defendants committed the crimes. If there is sufficient evidence to believe that a crime was committed and that the named individual committed the crime, the United States Magistrate Judge authorizes the filing of charges and the arrest of the defendant signing both the Criminal Complaint and the arrest warrant. A Criminal Complaint is a formal document that charges the defendant with crimes, describes the specific laws which the defendant has violated, and describes the acts of the defendant that are alleged to be violations of law.

6. The basis for this extradition request for GONZALES, is a Criminal Complaint signed on June 16, 2006, by United States Magistrate Judge Calvin Botley in the Southern District of Texas, alleging that the defendant violated United States laws relating to conspiracy, trafficking in counterfeit goods, and counterfeiting of pharmaceutical drugs with intent to defraud and mislead. The Criminal Complaint is the charging document that contains the charges against GONZALES. A certified true and accurate copy of that Criminal Complaint, UNITED STATES OF AMERICA v. RANDY GONZALES, Criminal No. H-06-447M, is attached hereto as Exhibit 1.

7. Based on this Criminal Complaint, a Warrant for Arrest dated June 23, 2006 was

issued by United States Magistrate Judge Mary Milloy of the United States District Court for the Southern District of Texas, authorizing the arrest of GONZALES. The Warrant for Arrest is a judicial document authorizing the arrest of GONZALES for the crimes set forth in the Criminal Complaint. United States Magistrate Judge Milloy is authorized and empowered under the laws of the United States to issue arrest warrants. A certified true and accurate copy of the Warrant for Arrest for RANDY GONZALES is attached hereto as Exhibit 2.

8. Copies of Exhibits 1 and 2 are attached hereto and certified by Mercedes P. Lerma, Deputy Clerk of the Court of the United States District Court for the Southern District of Texas. The Deputy Clerk of the Court is an officer of the Court and is authorized under the laws of the United States to certify court documents, such as the referenced Criminal Complaint and Warrant for Arrest, to be true and accurate copies of the originals. These certified copies bear the seal of the United States District Court for the Southern District of Texas. I have seen the original Criminal Complaint and Warrant for Arrest and I attest that the attached copies are true and accurate copies of the originals.

9. In the Criminal Complaint, GONZALES is charged with conspiracy (Title 18, United States Code, Section 371), trafficking in counterfeit goods (Title 18, United States Code, Section 2320(a)), and counterfeiting pharmaceutical drugs with the intent to defraud and mislead (Title 21, United States Code, Section 331(i)). In particular, I attest that the specific violations charged in the Criminal Complaint and in the Warrant for Arrest against RANDY GONZALES, state that:

On or about October 17, 2005, in Harris County, in the Southern District of Texas, RANDY GONZALES, did knowingly and intentionally traffic in counterfeit pharmaceutical drugs, namely Viagra and Cialis, without the authorization of the registered holders of the

trademark, in violation of Title 18, United States Code, Sections 371 and 2320(a) and 21, United States Code, Section 331(i).

10. Violations of the statutes referenced in paragraph 9 of this affidavit, Title 18, United States Code, Sections 371, 2320(a), and Title 21, United States Code, Section 331(i), are felonies under United States law. Each of these statutes was duly enacted law of the United States at the time the offenses were committed, at the time the United States Magistrate Judge authorized the Criminal Complaint and issued the Arrest Warrant, and is now in effect. Copies of these statutes are attached as Exhibit 3.

11. The sentence which can be imposed upon conviction for each violation of the offenses described in the Criminal Complaint and paragraph 10 of this affidavit, when a defendant has no prior felony convictions, is as follows:

- a. Conspiracy: 5 years imprisonment and a fine of \$250,000.
- b. Trafficking in Counterfeit Goods: 10 years imprisonment and a \$2 million fine.
- c. Counterfeiting a Pharmaceutical Drug: 3 years imprisonment and a \$10,000 fine.

In addition to any term of imprisonment, the court must impose a term of "supervised release" of up to 5 years, to begin after release from prison.

12. Title 18, United States Code, Section 3282 sets forth the statute of limitations governing prosecutions of the offenses charged in the Criminal Complaint. This Section provides:

Except as otherwise expressly provided by law, no person shall be prosecuted, tried, or punished for any offense, not capital, unless the indictment is found or the information is instituted

within five years next after such offense shall have been committed.

The criminal offenses charged in the Criminal Complaint in this case occurred on or about October 17, 2005 and continued through June 12, 2006. Since the offenses occurred less than five years ago, prosecution of the offenses is not barred by the statute of limitations.

13. I attest that the offenses charged in the Criminal Complaint and set forth in the Warrant for Arrest are offenses for which extradition may be granted under the laws of the United States. I further attest that GONZALES will not be prosecuted for crimes other than those charged in the Criminal Complaint and which form the basis for this extradition request.

#### SUMMARY OF THE EVIDENCE

15. The Criminal Complaint charges RANDY GONZALES with conspiracy, trafficking in counterfeit goods and counterfeiting pharmaceutical drugs.

16. Special Agents with the Department of Homeland Security, Immigration and Customs Service ("ICE"), became aware of GONZALES after being contacted by investigators working for Pfizer Pharmaceuticals ("Pfizer"), the manufacturer of Viagra. The investigators indicated that GONZALES, using an Internet Website, was offering pharmaceuticals such as Viagra and Cialis for sale. In October 2005, a Pfizer investigator met with GONZALES in the Peoples Republic of China to negotiate the purchase of counterfeit Viagra and Cialis pharmaceutical drugs. The investigator paid GONZALES for the counterfeit drugs and indicated he wanted them shipped to the United States. GONZALES provided the investigator with a name and telephone number of a contact in Houston, Texas, for the purpose of arranging the delivery of the counterfeit pharmaceuticals. This information, along with the website information for GONZALES, was provided to ICE Agents in the Houston field office. ICE

Agents placed calls to the telephone number provided by the Pfizer investigator to arrange for the delivery of the counterfeit pharmaceuticals. Subsequently, an ICE undercover agent met with an individual who was later identified as FAYEZ ALEDOUS and received bottles containing counterfeit Viagra.

17. During the time period beginning in October 2005 and continuing through June 2006, investigators communicated regularly by e-mail with GONZALES to negotiate the purchase and delivery of counterfeit pharmaceutical drugs. As a result, an undercover ICE Agent met with ALEDOUS on November 14, 2005, January 10, 2006, and February 1, 2006 and received counterfeit Viagra tablets, labels and packaging. The tablets obtained during these undercover purchases were later analyzed by the Forensic Chemistry Center for the Food and Drug Administration and by Pfizer, the registered trademark holder. The analysis indicated that the pills and labeling on the bottles were counterfeit.

18. I have attached the affidavit of ICE Agent Robert Sherman which further details the evidence against GONZALES. Agent Sherman's affidavit was sworn before a United States Magistrate Judge legally authorized to administer an oath for this purpose. I have thoroughly reviewed Agent Sherman's affidavit and the attachments, and attest that this evidence indicates that GONZALES is guilty of the offenses charged in the Criminal Complaint.

19. The following annexed documents are incorporated by reference to this affidavit:

a. Exhibit 1 : A certified true and accurate copy of the criminal complaint, United States v. Randy Gonzales, Criminal No. H-06-447M.

b. Exhibit 2: A certified true and accurate copy of the arrest warrant for Randy Gonzales, in, United States v. Randy Gonzales, Criminal No. H-06-447M.

c. Exhibit 3: True and accurate copies of the applicable criminal statutes.

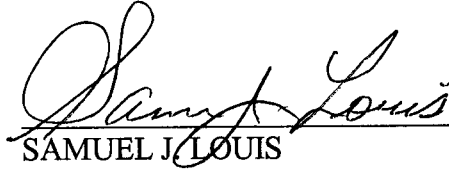
d. Exhibit 4: Sworn Affidavit of Robert Sherman.

IDENTITY INFORMATION

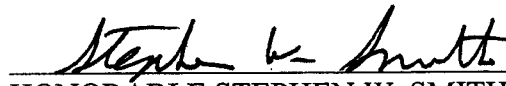
20. On March 7, 2007, the Royal Thai Police arrested an individual who identified himself to law enforcement agents as RANDY GONZALES in Bangkok, Thailand, pursuant to a provisional arrest warrant. GONZALES presented a Philippine passport at the time of his arrest. The additional facts establishing that the individual arrested is the defendant RANDY GONZALES are set forth in the accompanying affidavit of ICE Agent Robert Sherman.

CONCLUSION

21. Based on the foregoing, the United States of America respectfully requests that RANDY GONZALES be extradited to the United States of America, Southern District of Texas, for prosecution of the above offenses.

  
SAMUEL J. LOUIS  
Assistant United States Attorney

Signed and sworn to before me this 20<sup>th</sup> day of April, 2007 at Houston, Texas.

  
HONORABLE STEPHEN W. SMITH  
United States Magistrate Judge  
Southern District of Texas